

# **Real Property Billing and Collecting Standards of Practice**

## **12**

**Utah State Tax Commission**  
Property Tax Division  
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## **Section XII.I**

### **Billing Real Property Taxes**

#### **Purpose**

These standards establish guidelines for county officials to bill and collect real property taxes. Other standards discuss billing and collecting for personal property and the motor vehicle uniform fees. These standards are intended as a management tool to promote equitable administration of Utah law and rule.

#### **Legislative Authority**

The majority of Utah statutes dealing with the billing and collecting of real property taxes are found in Title 59, Chapter 2, Part 13, comprising 59-2-1301 through 59-2-1372. State Tax Commission Rule R884-24P-36 is also applicable.

#### **Standard 12.1 Steps Prior to Billing**

##### **12.1.0 Calculating Taxes**

The auditor calculates the amount of real property taxes by multiplying the taxable values on the assessment roll by the tax rates established for the current year. The taxes are then entered on the assessment roll.

##### **12.1.1 Transfer of Assessment Roll**

The county auditor delivers the assessment roll to the county treasurer before November 1. (Section 59-2-326) (See *Assessment Roll Standards of Practice*)

Though the latest delivery date is November 1, the State Tax Commission (Commission) suggests that delivery occur within time to allow the treasurer to prepare tax notices to send well before November 1.

#### **Standard 12.2 Delivery of Tax Notices**

##### **12.2.0 Treasurer's Duty**

The treasurer will deliver a tax notice to each owner of real property or leave it at the taxpayer's residence or usual place of business. [Section 59-2-1317 (1) (b)]

##### **12.2.1 Sending Deadline**

The real property tax notice shall be sent by November 1. [Section 59-2-1317 (4)]  
However, it is advantageous to the county and property owners to send the notice before November 1.

#### **Standard 12.3 Real Property Tax Notice Form**

##### **12.3.0 Information on Tax Notice**

The real property tax notice should contain, at a minimum, the following information:

- Name and address of owner
- Property identification number (R884-24P-36)

- Property address, where applicable
- Fair market value of the property, with any adjustment for residential exemption expressed in terms of taxable value (R884-24P-36)
- Kind or classification of property (See *Standard 12.3.1*, “Kind of Property”)
- For land that qualifies under the Farmland Assessment Act (FAA), the fair market value of the land, in addition to the value of the land for agricultural use as determined by the Commission. (Section 59-2-505) See *Farmland Assessment Act Standards of Practice*.
- Itemized nominal tax rate information for each taxing entity and total tax rate (R884-24P-36)
- Amount of taxes to be paid to each taxing entity and other purposes [Section 59-2-1317 (1) (b)]
- Total amount of tax levied and due for the current year [Section 59-2-1317 (1) (b) (iv)]
- If applicable, tax relief for taxpayers eligible for blind, veteran, or indigent abatement or the circuit breaker, which shall be shown as credits to total taxes levied (R884-24P-36)
- That the property may be subject to a detailed review in the next year under Section 59-2-303.1 and 59-2-1317
- Statement “Prior taxes are delinquent on this parcel,” if the parcel has delinquent taxes from a prior year [Section 59-2-1317 (2)]
- Taxes levied only on a certain kind or class of property for a special purpose or purposes, to be set out separately (Section 59-2-1317)
- If personal property taxes have been attached, these should be set forth on the tax notice separately
- Time and place taxes may be paid
- Date the taxes will be delinquent (Section 59-2-1331)
- Penalty provided by law, if the taxes are not paid before the delinquency date (Section 59-2-1331)
- Payment options and collection procedures

### **12.3.1 Kind of Property**

Section 59-2-1317 (1) (b) (i) of the Utah code requires the tax notice to identify the “kind” of property being taxed. This means that the land and improvements for each kind of property may be listed as one amount, but that the various types of property should be separated.

#### **Example**

If a 2-acre parcel of property with a house and a barn is valued at \$60,000, the tax notice may reflect the two kinds of property as:

Residential	\$50,000
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Non-residential (or agricultural)	\$10,000
<b>Total</b>	<b>\$60,000</b>

Land assessed under the Farmland Assessment Act should also be listed separately, showing both the market value and the value for agricultural use (the greenbelt value).

## **Standard 12.4 Billing Privilege Tax**

### **12.4.0 Privilege Tax**

A privilege tax is collected on real or personal property which is owned by an exempt entity, such as a governmental agency, but is used in a commercial venture for profit. (See *Exemptions Standards of Practice*)

### **12.4.1 Calculating Privilege Tax**

A privilege tax is the same amount that the ad valorem property tax would be if the possessor or user was the owner of the property. [Section 59-4-101 (2)] Any payment made in lieu of taxes on federally owned property is credited against the privilege tax imposed on the beneficial use of the property.

### **12.4.2 Tax Notice**

The privilege tax shall be billed with the same tax notice used for taxes assessed on ad valorem property. (See *Standard 12.3.0*, “Information on Tax Notice”) The privilege tax shall be collected and distributed at the same time and in the same manner as those taxes assessed on ad valorem property. [Section 59-4-101 (4)]

### **12.4.3 Failure to pay the Privilege Tax**

A privilege tax due and unpaid constitutes a debt to the county. If the tax is unpaid, or partially paid after the date of delinquency, the county auditor shall issue a warrant in the name of the county directed to the clerk of the district court for that county. The clerk shall enter the warrant in the judgment docket, in the column for judgment debtors. The warrant has the force and effect of a judgment rendered by a district court. (Section 59-4-102)

### **12.4.4 Calculating Privilege Tax for Owners of State Land**

Owners of land purchased from the state are subject to privilege tax on the amount of the purchase price which remains outstanding after subtracting amounts paid for those lands under a contract of sale.

## **Section XII.II Changing Assessed Value**

## **Standard 12.5 Erroneous or Illegal Assessments**

### **12.5.0 “Erroneous or Illegal”**

For purposes of Section 59-2-1321, “erroneous or illegal” assessments are jurisdictional defects, not mere errors of judgment. These would include those assessments of taxes clearly not set forth or allowed under the law. For example, the assessment of 10 head of cattle is illegal, as livestock is exempted from taxation.

It is generally held that “erroneous or illegal” does not include excessive assessments, where there has been a mistake in the valuation of the property.

#### **12.5.1 Taxpayer’s Demand for Reduction**

If an assessment is erroneous or illegal as defined above, the taxpayer may have the erroneous or illegal portion reduced by making a demand in writing to the county governing body. Though the county shall not require that the demand consist of a formal claim, the taxpayer’s demand must identify the taxes and amount that are erroneous or illegal.

#### **12.5.2 Granting Taxpayer’s Demand**

The county governing body decides if evidence shows that a property has been erroneously or illegally assessed. If it so decides, it may order that the assessment be reduced.

#### **12.5.3 Reduction If Taxes Not Already Paid**

If the assessment is erroneous or illegal, the county governing body may direct the county treasurer to allow the taxes on that part of the property erroneously or illegally assessed to be deducted before payment of taxes.

#### **12.5.4 Refund If Taxes Already Paid**

If taxes have been erroneously or illegally collected, the county governing body may direct the tax to be refunded by the county treasurer. The statutes do not appear to require the county to compensate the taxpayer for interest on the refunded amounts for any period the county retained the erroneous or illegal amounts or for expenses incurred in demanding the reduction. Interest may be computed and refunded from the date of demand. The county shall be reimbursed by any taxing entity which had received a portion of the money refunded to a taxpayer in the dollar amount that taxing entity had received.

#### **12.5.5 Denial of Demand**

If the county governing body denies the taxpayer’s demand under this section, the Utah Supreme Court has held that the taxpayer has the right to bring an action to recover the tax, and if successful, recover legal interest from the date of the demand. The Tax Commission has no jurisdiction to review a county’s actions regarding a claim of illegal or erroneous assessment actions under Section 59-2-1321.

### **Standard 12.6 Property Assessed More Than Once**

#### **12.6.0 Treasurer Initiative**

If the county treasurer determines that any property has been assessed more than once for the same year, the treasurer shall collect only the tax justly due and report the fact, under signed statement, to the county auditor. (Section 59-2-1322) The county governing body should authorize any abatement of tax under Section 59-2-1322.

The report to the county auditor should contain the following information:

- Parcel number(s) of property assessed more than once
- Name(s) and address(es) of property owner(s)

- Year the property was assessed more than once
- Amount of tax reduction
- Amount of assessment retained and the taxes collected
- Date
- Statements and signatures

#### **12.6.1 Refund if More Than One Assessment Has Been Paid**

If taxes have been paid more than once on a single property, the treasurer shall refund the taxpayer in the same manner as provided in *Standard 12.5.4*, “Refund if Taxes Already Paid”. The refund should be authorized in writing by the county governing body.

Additionally, the treasurer shall prepare a report, under signed statement, similar to the one in *Standard 12.6.0*, “Treasurer Initiative”. The only difference will be that “the amount refunded” will be substituted for “the amount the tax was reduced.” The report is also given to the county auditor.

### **Standard 12.7 Payment under Protest**

#### **12.7.0 Unlawfully Collected**

Any taxpayer may claim all or a portion of a tax bill to be “unlawful”, and pay that portion under protest. An “unlawful” assessment or tax is one that is illegal. (Section 59-2-1327) Examples include:

- If the tax is clearly illegal, the tax is recoverable under the provisions for illegal and erroneous assessment. County officials can correct these questions of fact without the judicial process. (Section 59-2-1321)
- Payment under protest applies where taxes are of questionable legality. For example, the county applies a law correctly and the taxpayer claims the law under which the tax was assessed is unconstitutional, as enacted by the legislature.
- The county has made a mistake in applying a law, and the determination of the county’s misapplication can only be decided by judicial process.

#### **12.7.1 Consequences of Paying Taxes Under Protest**

Any taxpayer can pay taxes under protest to the county treasurer. By doing so, the taxpayer acquires the right to file an action in district court for the taxes thought to be unlawful. A taxpayer paying under protest is not required to take any other steps (such as seeking an administrative remedy), as a condition precedent to bringing an action.

A suit or a demand to reduce an erroneous and illegal assessment under Section 59-2-1321 may be filed even if the taxes are not paid under protest. However, paying under protest does not revoke the right to file a demand to reduce the tax, as set forth under Section 59-2-1321.

A taxpayer can pay under protest even if an administrative appeal to the county board of equalization has been filed. And, if filing deadlines allow, a taxpayer can file an administrative appeal after payment has been made under protest.

A taxpayer who files an administrative appeal is not automatically considered to have paid under protest. To be considered as having paid under protest, the taxpayer must perform this act separately.

#### **12.7.2 Process to Pay Under Protest**

The taxpayer should notify the county treasurer at the time of payment, either orally or in writing, that the tax is paid under protest. At the same time, the taxpayer should “lay a foundation” for the eventual court action by indicating in writing why the tax is unlawful and what portion of the tax (if known), is under protest.

#### **12.7.3 Treasurer Documentation of Protest**

When a taxpayer pays under protest, the treasurer should document the protest, either by marking the account on the tax roll as “paid under protest” or by keeping a separate record of accounts paid under protest.

It is suggested that the treasurer also give a taxpayer paying under protest a receipt showing:

- Date the protest was made
- Amount of tax paid under protest and deemed unlawful
- Notice that a 6-month statute of limitations exists for filing an action in district court after paying taxes under protest

#### **12.7.4 If Amount Paid Under Protest Found Illegal**

If it is determined in any action that any portion of a tax, paid under protest, was unlawfully collected, a judgment will allow the taxpayer to recover the taxes plus interest as provided by law, together with the costs of the action. [Section 59-2-1328 (1)]

According to Rule 54(d), “Utah Rules of Civil Procedure”, a taxpayer can recover costs of a successful action against the State of Utah or its agencies, i.e., taxing entities, only if the statutes specifically allow for the recovery. Section 59-2-1328 does allow for the recovery of costs pursuant to a successful payment under protest action.

#### **12.7.5 Consequences to Taxing Entities**

Those taxing entities having received a portion of the unlawful taxes shall repay them to the county. These taxing entities shall also pay the county a corresponding portion of any “interest as provided by law” that is awarded. The statute also requires all taxing entities entitled to a portion of the unlawful taxes (had they been lawful) to pay the county a portion of the “costs of the case” in proportion to the amount of the unlawful tax they would have received. [Section 59-2-1328 (1)]

## **Standard 12.8 Tax Commission and Board of Equalization Decisions**

### **12.8.0 Administrative Appeals**

Through the appeals process, the Commission or the board of equalization may establish that all or a portion of taxes are in error. [Section 59-2-1330 (3)] (See *Board of Equalization Standards of Practice*)

### **12.8.1 Refund of Illegal Taxes**

Those portions of taxes representing the incorrect assessment will be refunded to the taxpayer, along with interest equal to the rate earned by the county on the refunded taxes from the time of receiving the taxes. [Section 59-2-1330 (3)]

### **12.8.2 Reimbursement by Taxing Entities**

The taxing entities must reimburse the county as described in *Standard 12.7.5, "Consequences to Taxing Entities"*.

## **Standard 12.9 Errors or Omissions in Assessment Roll**

### **12.9.0 Statute**

Omissions, errors, or defects in form in the assessment roll, when it can be ascertained what was intended, may, with the consent of the county governing body, be supplied or corrected by the assessor at any time prior to the sale for delinquent taxes.

### **12.9.1 "Omissions, Errors, and Defects in Form"**

Omissions, errors, and defects in the assessment roll are defined as typographical mistakes or other clerical mistakes that could have been determined at the time the assessment roll was created.

### **12.9.2 Time Allowed for Correction**

Before the auditor has finalized the assessment roll, the assessor may file an appeal for any reason to the county governing body through the board of equalization. (See *Board of Equalization Standards of Practice*).

However, after the assessment roll is finalized, the assessor may only request an action to correct an error, omission or defect prior to the date of the delinquent tax sale. (Section 59-2-1333)

### **12.9.3 Procedure**

An action to correct should be filed whenever the assessor discovers an error, omission, or defect. If the board of equalization is in session, the assessor should appeal to the board to correct the assessment.

If the board is not in session, the assessor must submit the correction to the county governing body. The county governing body will decide if there is cause to have a hearing, and if so, conduct the hearing, and make any needed tax adjustments.

### **12.9.4 Consequences of Reduction**

If an error, omission or defect to the assessment roll is corrected by the county governing body and taxes are reduced, the taxpayer will be refunded and the county

reimbursed, as necessary, as set forth in *Standards 12.5.3*, “Reduction If Taxes Not Already Paid”; and *12.5.4*, “Refund If Taxes Already Paid.”

## **Section XII.III**

### **Collecting Real Property Taxes**

#### **Standard 12.10 Collection Process**

##### **12.10.0 Treasurer Collects**

The county treasurer collects real property taxes. [Section 59-2-1317 (1) (a)]

##### **12.10.1 Recording a Payment**

The treasurer should mark the date and the amount of the payment of any real property tax in the tax roll opposite the property identification number. (Section 59-2-1318)

##### **12.10.2 Form of Payment**

All taxes shall be paid in cash, unless the county treasurer adopts rules otherwise. [Section 59-2-1319 (3)] Cash includes check or credit card as provided by county ordinance, but does not include foreign currency. If a credit card company assesses a fee or percentage of collections, these charges must be paid by the county. They may not be passed on to the taxing entities.

#### **Standard 12.11 Receipts**

##### **12.11.0 Receipts Not Always Required**

The treasurer is not required to send out a receipt acknowledging payment of real property taxes. [Section 59-2-1317 (4)]

##### **12.11.1 Taxpayer Request for Receipt**

Upon request, the treasurer shall give a receipt to the person paying the taxes. The receipt should specify the amount of taxes due, the property identification number, the amount of the assessment, and the aggregate amount of taxes paid. [Section 59-2-1319 (1)]

##### **12.11.2 Payment of Undivided Interest**

Payments must be accepted on the real property taxes of an undivided interest in real estate, so that an owner may protect his share of the property interest from tax lien. For these payments, the statutes direct the treasurer to issue a receipt showing the undivided interest on which taxes were paid. (Section 59-2-1323)

##### **12.11.3 Duplicate Payments**

If a duplicate tax payment has been made on a property, the treasurer should not make an unsolicited refund. Both parties making payment may be maintaining a legal interest. However, if more than one person insists on paying a tax, the treasurer is under no obligation to accept the duplicate payment.

## **Standard 12.12 Installment Payments**

### **12.12.0 Before Taxes are Delinquent**

Before the date of delinquency, the treasurer may accept and credit payments on account against taxes coming due during the current year. These payments may be made either before or after the levies are made. Payments should be in amounts of not less than \$10 or for the full amount of the unpaid tax. [Section 59-2-1331 (4)]

### **12.12.1 Recording Partial Payments**

A partial payment and its date of payment should be recorded in the tax roll. If the tax roll has not been prepared as of the date of payment, the payment should be recorded in a separate record and entered on the tax roll as soon as it is available.

### **12.12.2 Effect on Tax Notices**

If a payment has been made before preparing tax notices, the tax notice should reflect that payment.

## **Standard 12.13 Delinquency**

### **12.13.0 Date of Delinquency**

Taxes not paid or postmarked by November 30 following the date of levy are delinquent. If November 30 falls on a weekend or holiday, the next working day becomes the final payment date. The delinquency date may also be extended. [See *Standard 12.16.0*, "Requirement for Extension" and Section 59-2-1331 (1)]

### **12.13.1 Preparing the Delinquency List**

After the date of delinquency, the treasurer may not post any delinquent payments that are received until the delinquency list is prepared. [Section 59-1-1331 (1)] All accounts not paid in full at the time the delinquency list is prepared are placed on the delinquency list. If an account has been paid with a check that is returned for insufficient funds, that account is placed on the delinquency list as if payment were never received.

### **12.13.2 Information on Delinquency List**

The delinquency list should contain the following information about each delinquent account:

- Name of the delinquent taxpayer, if delinquent taxpayer is a business entity, the name of the business entity
- A description or the property identification number of the delinquent property
- The amount of delinquent taxes due (not including penalties)
- Statement that a penalty shall be imposed
- Statement that interest accrues as of January 1 following date of delinquency unless the delinquent taxes and penalty are paid before January 16.

## **Standard 12.14 Penalty**

### **12.14.0 Amount of Penalty**

All delinquent taxes for each separately assessed parcel are subject to a penalty of 2% of the amount of taxes or \$10, whichever is greater. [Section 59-2-1331 (2)] After the

delinquency list has been determined, the penalty is assessed and posted to each delinquent parcel.

#### **12.14.1 Attached Personal Property Taxes**

If personal property taxes are attached to real property taxes which then become delinquent, the 2% penalty is applied to the personal property charges as well as the real property taxes.

### **Standard 12.15 Interest Charges**

#### **12.15.0 Period Interest Accrues**

If delinquent taxes and penalty are paid before January 16 following the delinquency date, no interest will be charged. If paid on or after January 16, interest must be charged on a per annum basis beginning January 1 following the delinquency date. [Section 59-2-1331 (2)] Interest then accrues until the date of payment. [Section 59-2-1331 (3)]

#### **12.15.1 Interest Rate**

The interest rate applied to delinquent real property taxes and penalty is the Federal Discount Rate (FDR) on January 1 following the date of delinquency plus six percentage points. [Section 59-2-1331 (2)]

This interest rate is used to determine interest on that specific year's taxes and penalty until they are paid. Thus, no matter how many years a particular year's taxes and penalty remain delinquent, the interest rate on those amounts will never change. [Section 59-1-1331 (3)]

#### **12.15.2 Interest Rate on Subsequent Year's Taxes**

Though the interest rate on a particular year's taxes never changes, the interest rate may change when applied to a subsequent year's delinquent taxes.

#### **Example**

Taxpayer's real property taxes from 1996, 1997, and 1998, are delinquent. The amount of taxes and penalty assessed in each year and the FDR on January 1 of each respective following year are as follows:

- 1996 taxes and penalty are \$100. The FDR is 5% on January 1, 1991, resulting in an interest rate of 11%.
- 1997 taxes and penalty are \$150. The FDR is 4% on January 1, 1992, resulting in an interest rate of 10 %.
- 1998 taxes and penalty are \$200. The FDR is 3% on January 1, 1993, resulting in an interest rate of 9%.

Thus, if no payment is made through 1999, interest in each year would have accrued as follows:

<b>1997</b>	\$100 at 11%	\$11
	Total	\$11
	Total Delinquency	\$111



<b>1998</b>	\$100 at 11%	\$11
	\$150 at 10%	\$15
	Total	\$26
	Total Delinquency	\$287

<b>1999</b>	\$100 at 11%	\$11
	\$150 at 10%	\$15
	\$200 at 9%	\$18
	Total	\$44
	Total Delinquency	\$531

If all the delinquent amounts had been paid on December 31, 1998, interest on the taxes and penalty due from 1996 and 1997 would have accrued interest until the payment date. However, no interest would have accrued on the 1998 taxes and penalty as they were paid before January 16 following the date of their delinquency. [Section 59-2-1331 (2)]

### **12.15.3 Attached Personal Property Taxes**

If personal property taxes are attached to the real property taxes which then becomes delinquent, interest is assessed on the personal property taxes as well as the real property taxes and penalty.

The attached personal property taxes (and penalty if delinquent) already include interest, calculated to November 30th. Penalty and interest to both the real and personal property taxes will be calculated and accrue from November 30th by the County Treasurer. (See *Personal Property Billing and Collection Standards of Practice, Standard 11.13, "Collection Steps After Attachment"*)

## **Standard 12.16 Extending the Delinquency Date**

### **12.16.0 Requirements for Extension**

The county governing body may extend the deadline for delinquent taxes from November 30 to noon on December 30. To do this, the county governing body must publish a notice of the proclamation concerning the extension in a newspaper of general circulation in the county. It must be published in at least two issues before November 1 of the year in which the taxes are to be paid. [Section 59-2-1332 (1)]

### **12.16.1 Consequences of Extension**

- (1) If the county legislative body extends the date when taxes become delinquent [Section 59-2-1332(1)], the notice of delinquency in the payment of property taxes is to be provided on or before January 10th. [Section 59-2-1332.5 (4)]
- (2) If the delinquency date is extended, the date for selling of property to the county for delinquent taxes is to be extended 30 days from the dates provided by law. [Section 59-2-1332 (2)]

## **Standard 12.17 Notification of Delinquency**

### **12.17.0 Effect of Payment Before Delinquency List is Published**

If a delinquent real property taxpayer pays the full amount of taxes and penalty due before notification of delinquency, that taxpayer's name may be removed from the delinquency list.

If a payment is made for less than the full amount due for taxes and penalty, the payment should first be applied to the penalty, with any remainder to the taxes due. If the amount of taxes due has been reduced by the payment, the delinquency list should be adjusted accordingly.

### **12.17.1 Notification of Delinquency Requirements**

On or before December 31 of each year, unless the date of delinquency has been extended, (see *Standard 12.16*, "Extending the Delinquency Date"), the county treasurer, shall provide notice of delinquency in the payment of property taxes as follows: (Section 59-2-1332.5)

- (1) Sending a notice, by mail, postage prepaid, to each delinquent taxpayer that includes:
  - (a) statement that delinquent taxes are due
  - (b) the amount of delinquent taxes due, not including penalties
  - (c) the name of the delinquent taxpayer, if known; or\
  - (d) if the delinquent taxpayer is a business entity, the name of the business entity
  - (e) a description of the delinquent property, or property identification number
  - (f) a statement that a penalty is to be imposed
  - (g) a statement that interest accrues as of January 1 following the date of the delinquency unless before January 16 the delinquent taxes and penalty are paid

AND, making available to the public by electronic means, a list of delinquencies that includes the following information:

- (a) Name of the delinquent taxpayer, if delinquent taxpayer is a business entity, the name of the business entity
- (b) A description or the property identification number of the delinquent property
- (c) The amount of delinquent taxes due (not including penalties)
- (d) Statement that a penalty shall be imposed
- (e) Statement that interest accrues as of January 1 following date of delinquency unless the delinquent taxes and penalty are paid before January 16

**OR**

- (2) Publishing a delinquent list in one issue of a newspaper having general circulation in the county that lists each delinquency in alphabetical order by the last name of the delinquent taxpayer or if a business entity, the name of the business entity and including the following information:

- (a) Name of the delinquent taxpayer, if delinquent taxpayer is a business entity, the name of the business entity
- (b) A description or the property identification number of the delinquent property
- (f) The amount of delinquent taxes due (not including penalties)
- (g) Statement that a penalty shall be imposed
- (h) Statement that interest accrues as of January 1 following date of delinquency unless the delinquent taxes and penalty are paid before January 16

A newspaper is considered one of general circulation if the following criteria are met:

- (a) Subscription rate of at least 200
- (b) Published for not less than 18 months
- (c) Admitted in U.S. mail as second-class matter for twelve months

(Section 45-1-1)

### **12.17.2 Other Notices of Delinquency**

In addition to the notice of delinquency in the payment of property taxes as outlined in the above standard, a county treasurer may in accordance with Section 59-2-1332.5(5) mail a notice that property taxes are delinquent to the following

- (1) A delinquent taxpayer
- (2) An owner of record of the delinquent property
- (3) Any other interested party that requests notice
- (4) Or combination of the above.

This notice may be mail at any time the county treasurer deems appropriate. In addition to the information required on the required notice of delinquency, this additional notice may include any information the county treasurer finds useful to the owner of record in determining:

- (a) the status of taxes owed on the delinquent property
- (b) any penalty that is owed on the delinquent property
- (c) any interest charged under Section 59-2-1331 on the delinquent property, or
- (d) any related matters concerning the delinquent property.

### **12.17.3 Republication of the Delinquency List**

If the published delinquency list contains an omission, error, or defect, the list may be republished as amended or notice of the correction may be given in a supplementary publication. Any republication shall be made in the same manner as the original and shall be published for not less than one week. (Section 59-2-1334)

### **12.17.4 Privilege Tax Delinquency**

If a property subject to the privilege tax becomes delinquent, interest, penalties, and costs may be charged to the delinquent account. [Section 59-4-101 (4)] However, the property may not be attached, encumbered, or sold by the county. Instead, the county auditor must file a warrant in the name of the county in district court to obtain a judgment for the amounts due the county. [Section 59-4-102]

### **12.17.5 Sale of Undivided Interest**

As more than one person may own an undivided interest in a property, one portion of the taxes may be paid and the other portion becomes delinquent.

## **Standard 12.18 Taxes on Parcels that Are Segregated or Combined During the Calendar Year**

### **12.18.0 Relevant Statutes Relating to Subdivisions**

According to Utah law, before a city, town, or county “legislative body may approve a plat, the owner of the land shall provide the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.” [Section 10-9-804 (2) (d) and Section 17-27-804 (2) (c)] City, town and county legislative or executive bodies enforce the provisions of these laws. Once a plat is signed, the county recorder must record the document. City, town or county legislative bodies should ensure taxes are cleared before plat is signed.

### **12.18.1 Legal Description Specific Payments on Parcels Segregated or Combined During the Calendar Year**

New parcels created after January 1 of the current year are given a separate legal description with a link to ownership records, tax maps and assessment records by the county recorder. This link is the parcel identification number. The identifier refers to the land, not the owner.

County treasurers may accept a “legal description specific” payment for any of the newly created parcels, through November 30<sup>th</sup>, for current or prior year taxes. This payment is a “legal description specific” payment and is considered as a partial payment to be applied to the original parcel, which was taxed as of January 1.

A “legal description specific” payment for current year and/or prior year taxes allows owners of segregated properties to clear their specific parcel of property taxes due.

### **12.18.2 Procedure for Calculating and Applying Legal Description Specific Tax Payments**

- (1) The county recorder assigns a unique legal description and parcel identification number to each newly created parcel.
- (2) The county treasurer may assign a portion of the taxes (delinquent or current year) to each newly created parcel. This may require consultation with the county assessor’s office to determine a reasonable distribution.
- (3) The county treasurer may accept property tax payments on each newly created parcel. The treasurer lists the legal description and credits the amount paid to the original parcel, noting it as a “legal description specific” partial payment. Only those newly created parcels that remain unpaid are considered delinquent in the following year. (Sections 59-2- 1323 and 1349)
- (4) The “county treasurer may accept and credit on account against taxes becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:
  - (a) payments in amounts of not less than \$10; or
  - (b) the full amount of the unpaid tax.” (Section 59-2-1331)

### **12.18.3 Notice of Delinquency to Owners of Newly Created Parcels**

Newly created parcels which become taxable after January 1<sup>st</sup>, assume any unpaid taxes from the original parcel if “legal description specific” payments are not made. The tax lien follows the land. The treasurer shall stamp on the tax notice or tax bill, the following: “Prior taxes are delinquent on this parcel.” (Section 59-2-1317)

**Guideline:** It is advisable to notify newly created parcel owners that property tax

## **Section XII.IV**

### **The Tax Sale**

#### **Standard 12.19 Official Tax Sale Records**

##### **12.19.0 Treasurer Creates “Record of Delinquent Taxes”**

The treasurer shall make a record of the taxes on delinquent property in the same order as the property appears on the assessment rolls. [Section 59-2-1338 (1)]

##### **12.19.1 Format of Record of Delinquent Taxes**

The record shall include the following: [Section 59-2-1338(1)(a)]

- The name of the person to whom the property is assessed
- The description of the delinquent parcel and a reference to the parcel, serial, or account number under which the property was listed in the assessment roll
- The amount of delinquent taxes, penalties, and administrative costs
- Space to enter the date of redemption and by whom the property is redeemed
- Space to enter delinquent taxes in subsequent years, along with accompanying interest, penalties, and costs, against each parcel which remains unredeemed

##### **12.19.2 Completion Date for “Record of Delinquent Taxes”**

On or before March 15, the treasurer shall complete the official record of delinquent taxes and attach the treasurer’s certificate to it. The record shall be maintained in the treasurer’s office. The treasurer’s certificate shall be in substantially the form described in Section 59-2-1339. See sample form PT-120, “Treasurers Certificate to Record of Delinquent Taxes,” in Appendix 12A.

##### **12.19.3 Upkeep of Tax Sale Records**

Any subsequent delinquent taxes and payments on a property shall be entered in the space provided in the official record for that property. [Section 59-2-1339 (2)]

Property against which a property tax delinquency exists shall be assessed in subsequent years for taxes in the same manner as if no delinquency existed.

#### **Standard 12.20 Redemption**

##### **12.20.0 When Property is Redeemable**

Once property is delinquent, Section 59-2-1346 (1) states that the property may be redeemed any time prior to the tax sale. This means the owner (or anyone else) may

redeem the property on the day of the sale. The property may even be redeemed while the sale is in progress, up to the time that the property is actually sold by bidding.

Even if the property owner “buys” the property at the tax sale, a redemption certificate, not a tax title, is issued. The taxpayer is thus returned to the same pre-sale status he occupied and has not improved his position in relation to other lien holders.

#### **12.20.1 Delinquent Property Redemption**

Any person on behalf of the owner can redeem delinquent property by the payment of all taxes, penalties, interest and administrative costs. Property title will not change and all prior liens are unaffected. [Section 59-2-1346 (1)]

#### **12.20.2 Partial Payments**

Prior to the tax sale, the treasurer shall accept and credit payments made on account for the redemption of delinquent property. Payments must be made in amounts of not less than \$10, except for the final payment, which may be in any amount. [Section 59-2-1346 (2)]

#### **12.20.3 Steps to Take if Property is Redeemed**

If any property is redeemed, the county treasurer then makes a proper entry in the record of delinquent taxes and issues a certificate of redemption. The certificate of redemption can be recorded in the recorder’s office without acknowledgment, e.g., a notarized signature. [Section 59-2-1348]

#### **12.20.4 Audit of Redemptions**

The county auditor shall audit the treasurer’s tax sale records at least once a year. The treasurer shall account for all moneys paid on account as a partial payment towards redemption and for payments resulting in full redemption. [Section 59-2-1345 (2)]

#### **12.20.5 Redemption by Co-Owners**

If two or more persons own an undivided interest in delinquent property, any owner may redeem his portion of the property by paying that portion of the taxes, penalties, interest, and administrative costs that his interest bears to the whole. [Section 59-2-1349]

#### **12.20.6 All Payments to Redeem Delinquent Property**

Section 59-2-1346 (2)(a-e), details how payments are to be applied to redeem delinquent property.

At any time prior to the expiration of the period of redemption the county treasurer shall accept and credit on account for the redemption of property, payments in amounts of not less than \$10, except for the final payment, which may be in any amount. For the purpose of computing the amount required for redemption and for the purpose of distributing the payments received on account, all payments shall be applied in the following order:

- (a) against the interest and administrative costs accrued on the delinquent tax for the last year included in the delinquent account at the time of payment;
- (b) against the penalty charged on the delinquent tax for the last year included in the delinquent account at the time of payment;

- (c) against the delinquent tax for the last year included in the delinquent account at the time of payment;
- (d) against the interest and administrative costs accrued on the delinquent tax for the next to last year included in the delinquent account at the time of payment;
- (e) and so on until the full amount of the delinquent taxes, penalties, administrative costs, and interest on the unpaid balances are paid within the period of redemption.

#### **12.20.7 Apportionment of Redemption or Assignment money**

If a sum less than the full amount of the taxes, interest, penalty, and costs is accepted in settlement, the proceeds accepted in settlement shall be first applied to the original and subsequent taxes, and the remainder to interest, penalties and costs. (Section 59-2-1366)

### **Standard 12.21 Tax Sale List**

#### **12.21.0 Property to Include on the List**

If any property is not redeemed by March 15 following the lapse of four years from the date when the property tax became delinquent, the treasurer shall add that property to the tax sale list. [Section 59-2-1343] The treasurer shall file the list with the county auditor as soon after March 15 as possible.

#### **12.21.1 Information on List**

The tax sale list, as presented to the auditor, should contain the following information on each listed property:

- Name and address of the owner
- Parcel number of the property
- Amount of tax, interest and penalty due and owing

#### **12.21.2 Updating the List After Filing**

Between March 15 and the date of the tax sale, the treasurer shall transmit daily a report to the county auditor on any payment made the previous day on property listed on the tax sale list.

These daily reports shall include in separate columns the following data:

- Number of the redemption certificate or the receipt issued on account for redemption
- Amount received for taxes, penalties, and administrative costs accrued to the date of the last entry in the tax sale record
- Amount received as interest accrued

#### **12.21.3 Listing Properties Subject to Federal Tax Liens**

Before properties with federal tax liens can be sold at the tax sale, Section 7425 (C) of the Internal Revenue Code requires that notice of the sale be submitted to and consent to sell the property free of the federal lien be obtained from the Internal Revenue Service.



The notice or application for consent to sell should be addressed to: Internal Revenue Service, MS: 5021: DEN, 600 17<sup>th</sup> Street, Denver CO 80202

#### **12.21.4 Notice of Sale to Internal Revenue Service**

A notice of sale to the Internal Revenue Service must be given, in writing, by registered or certified mail or by personal service, not less than 25 days before the sale.

The notice must contain the following information:

Name and address of person submitting the notice.

- A copy of each “Notice of Federal Tax Lien,” Form 668, affecting the property to be sold.
- A detailed description, including location, of the property affected by the notice.
- The date, time, place, and terms of the sale of the property.
- The approximate amount of the taxes, penalty, and interest due, and a description of any other costs that will be charged against the property.

#### **12.21.5 Obtaining Consent to Sell Property Free of Federal Lien**

If the Internal Revenue Service consents, property subject to federal liens may be sold free of those liens at the tax sale. To obtain that consent, an application in triplicate must be submitted and contain the following information:

- The same information that is required for a notice of sale to the Internal Revenue Service.
- The reasons the consent is desired.
- A statement showing that adequate protection is given to the federal lien.
- A declaration that the information supplied in the application is made under penalties of perjury.

Adequate protection of the lien may be demonstrated if one of the following is present:

- The taxpayer has no equity in the property.
- The taxpayer’s interest in the property is assigned to the Internal Revenue Service.
- The proceeds in excess of prior encumbrances are assigned to the Internal Revenue Service.
- The sale divests the taxpayer of all rights, title, and interest in the property, and the proceeds are to be held as a fund subject to the United States liens and claims in the same manner and priority as the liens and claims were held on the discharged property.

Other circumstances acceptable to the Internal Revenue Service.

#### **12.21.6 Federal Redemption of Property Sold at Tax Sale**

Congress has allowed the Internal Revenue Service 120 days from the date of the sale to investigate and redeem the property, even if consent has been obtained to sell the property.

## **Standard 12.22 Advertising the Tax Sale**

### **12.22.0 Date of Tax Sale**

The county auditor will select a date in May or June for the tax sale. [Section 59-2-1351 (1)]

### **12.22.1 Notice in Newspaper**

Notice of the tax sale shall be published four times in a newspaper having general circulation in the county, once in each of four successive weeks immediately preceding the date of the sale. See *Standard 12.17.1*, “Notification of Delinquency Requirements” for a description of a general circulation newspaper.

### **12.22.2 Posting in Public Places**

If no newspaper is published in the county, the notice shall be posted in five public places in the county, as determined by the auditor, at least 25 but no more than 30 days prior to the date of the sale and remain posted until the sale has occurred. [Section 59-2-1351 (2)] The county courthouse should be one of the five public places to post the notice.

### **12.22.3 Mail Notice to Owner and Lienholder**

Notice of the tax sale shall also be sent by certified mail to the last known recorded owner and recorded lien holders, as of the preceding March 15, at the last-known address. [Section 59-2-1351 (2)]

In *Fivas v. Peterson*, 300 P.2d 635 (1956), the Utah Supreme Court held that the lack of a delinquent owner’s address on the assessment roll does not excuse the county from sending notice. The county must look at the records most likely to disclose the necessary information, i.e., the records in the recorder’s office.

### **12.22.4 Form of Tax Sale Notice**

The notice should be in substantially the form described in Section 59-2-1351 (3). See sample form PT-121, “Notice of Tax Sale,” in Appendix 12A.

## **Standard 12.23 Properties Not to Sell At Tax Sale**

### **12.23.0 Irregular or Erroneous Assessment**

Before the tax sale, if the auditor discovers that a property was subject to an irregular or erroneous assessment, the auditor may not sell the property. Instead, the county governing body shall cause the tax records to reflect the correction in the next succeeding year on the basis of the value and rates of the year for which it was erroneously assessed. (Section 59-2-1350)

### **12.23.1 Defective Title**

In cases where the description of the property is so defective as to convey no title, the real estate may not be offered for sale. [Section 59-2-1351.1 (1) (a) (ii)]

## **Standard 12.24 The Tax Sale**

### **12.24.0 Conducting the Tax Sale**

At the time specified in the sale notice, the auditor shall offer for sale at the designated location all unredeemed properties on the tax sale list. The auditor shall sell all real estate for which an acceptable bid is made. [Section 59-2-1351.1 (1)]

The auditor may post at the place of the sale a copy of the published list of real estate to be offered and conduct the sale by reference to the list. [Section 59-2-1351.1 (1) (b)]

### **12.24.1 Establishing Sale Procedures**

For matters not addressed by statute, Commission rule or these standards, the county governing body shall enact ordinances to establish tax sale procedures. These procedures should protect the financial interest of the delinquent property owner and meet the collection requirements of local government. [Section 59-2-1351.1 (2) (b)]

### **12.24.2 Tax Sale Ordinance**

Each county shall establish a written ordinance for real property tax sale procedures which shall be displayed in a public place and available to all interested parties. (Reference R884-24P-55). The tax sale ordinance should include (as a minimum), the following information:

- Bidder registration procedures
- Redemption rights and procedures
- Prohibition of collusive bidding
- Conflict of interest prohibitions and disclosure requirements
- Criteria for accepting or rejecting bids
- Sale ratification procedures
- Criteria for granting bidder preference
- Procedures for recording tax deeds
- Payment methods and procedures
- Procedures for contesting bids and sales
- Criteria for striking properties to the county
- Procedures for disclosing properties withdrawn from sale for reasons besides redemption
- Disclaimers by the county with respect to sale procedures and actions.

### **12.24.3 Tax Sale Bidding Alternatives**

The County Auditor has two alternatives for selling each delinquent property at the tax sale:

- 1) Bidding down the property, and
- 2) Bidding up the price.

### **12.24.4 Bids for Less Than the Entire Parcel (Bidding Down the Property)**

The county may accept a bid for less than the entire parcel as long as the bid is for the full amount of taxes, penalties, interest and administrative costs. For example, assume the delinquent parcel was 80 foot frontage and 100 feet deep. For this type of bidding, the first bid is typically for the full delinquency cost for the entire parcel. The second bid would be for the full costs for something less than the full parcel, say “less the South 10

foot frontage” (purchasing a parcel 70 feet by 100 feet). The third bid would be for the full cost for an even smaller parcel, say “less the South 30 foot frontage” (purchasing a parcel 50 feet by 100 feet). When the bidding is completed, the successful bidder would have purchased the smallest acceptable portion of the property, paying only the delinquency costs (taxes, penalties, interest and administrative costs). The balance of the parcel not purchased at tax sale is considered to be redeemed, remaining in the name of the owner.

In “bidding down” the property, the auditor must not allow the remainder (the portion to remain in the name of the owner), to be landlocked or otherwise unreasonably diminish the owner’s property value. In the example of the 80 by 100 foot parcel, a bid for the entire parcel less the rear 30 feet, would be a rejected bid since the remaining rear 30 by 100 feet would be landlocked allowing the property owner no clear access.

Prior to the sale, the auditor may wish to review all properties to be sold to determine the most appropriate side from which to bid down the parcels. During this review, the auditor could also determine if there are properties which might be better served by bidding for the entire parcel. [Section 59-2-1351.1 (4)]

#### **12.24.5 Bids for the Entire Parcel (Bidding Up the Price)**

As an alternative, the auditor may sell the entire delinquent parcel for the highest price. The minimum bid must be for the delinquent taxes, penalties, interest and administrative costs. As an example where this bidding procedure might be appropriate, assume that the delinquent parcel was a 5 foot by 100 foot strip between two subdivision building lots. It would do little good to “bid down” the property, leaving an even smaller piece as a remainder. The entire parcel should be bid for the highest price possible. [Section 59-2-1351.1 (4)]

#### **12.24.6 Option to Accept No Bid**

The county governing body may decide that none of the bids are acceptable. [Section 59-2-1351.1 (5)]

#### **12.24.7 Rescission of Bid**

Once the sale of particular parcel is closed, the successful purchaser may not unilaterally rescind the bid. The county may enforce the terms of the bid by obtaining a judgment against the purchaser in the amount of the bid, interest and attorney fees. [Section 59-2-1351.1 (6)]

### **Standard 12.25 Issuing Deeds After Tax Sale**

#### **12.25.0 Auditor Conveys Deeds**

The auditor executes deeds conveying in fee simple all property sold at the public sale to the purchaser. The auditor attests the transfer of title with the auditor’s seal. [Section 59-2-1351.1 (9)]

#### **12.25.1 Contents of Deeds**

The auditor will ensure that deeds transferring title to properties sold at the tax sale show the following, as described in Section 59-2-1351.1 (9):

- The total amount of all the delinquent taxes, penalties, interest, and administrative costs which were paid for the execution and delivery of the deed
- The year for which the property was assessed and become delinquent and the year the property was subject to tax sale
- A full description of the property
- The grantee's (buyer's) name

#### **12.25.2 Form of Deed**

As per Section 59-2-1351.1 (9), the deed shall substantially follow the form found in sample form PT-122, "Tax Deed," in Appendix 12A.

#### **12.25.3 Recording the Deed**

The county auditor will deliver a copy of all deeds prepared for properties sold at the tax sale to the county recorder. The county recorder will record all copies of deeds delivered by the auditor. The fee for the recording shall be included in the administrative costs of the sale. [Section 59-2-1351.1 (9) (d)]

#### **12.25.4 Record of Tax Deeds**

The county auditor shall make and keep on file a record of all tax deeds issued. (Section 59-2-1364) The acknowledgment of all deeds shall be taken by the county recorder, or other county official authorized to take acknowledgments, free of charge.

### **Standard 12.26 Property Not Sold at The Tax Sale**

#### **12.26.0 Striking Property Off to County**

If any property is offered at the tax sale and not purchased, the county auditor shall: (Section 59-2-1351.3)

- Publicly strike the property off to the county by declaring substantially, "All property here offered for sale and which has not been struck off to a private purchaser is hereby struck off and sold to the county of \_\_\_\_\_ (naming the county), and I hereby declare the fee simple title of the property to be vested in the county."
- Make an endorsement opposite each of the entries in the tax sale record, substantially as follows: "The fee simple title to the property described in this entry, in the year \_\_\_\_\_, sold and conveyed to the county of \_\_\_\_\_ in payment of general taxes charges against the property."
- Sign the record.

At this point, the fee simple title to the property vests in the county. [Section 59-2-1351.3]

#### **12.26.1 Tax Sale Record**

After the above steps are completed, the auditor shall deposit the tax sale record with the county recorder. The tax sale record becomes part of the official records and is considered to have been recorded by the recorder, who makes the necessary entries in the index, abstract record, and plat book showing the conveyance of all property so sold and conveyed to the county. [Section 59-2-1351.3 (3)(4)]

### **12.26.2 Selling Property Struck Off to the County**

The property struck off to the county can be sold for a price and terms determined by the county governing body. If the property is sold on terms, the purchaser's equity portion is taxable like other non-exempt real property, although the title remains in the name of the county. The county clerk is to issue the deed of conveyance.

Money received from the sale shall first be applied to the cost of administering and supervising the property. Remaining money shall be distributed to the various tax entities in proportion to their interests in the taxes. Any excess money shall be treated as unclaimed property. (Section 59-2-1351.5)

### **12.26.3 Renting or Leasing Property Struck Off to the County**

For property struck off to the county at the final sale, the county executive may, with the approval of the county governing body, at any time after the sale, rent or lease the property for a price and upon terms determined by the county governing body for farming, grazing, mining, or drilling purposes.

Rent or lease money received shall first be applied to the cost of administering and supervising the property. Remaining money shall be distributed to the various tax entities in proportion to their interests in the taxes. Any excess money shall be treated as unclaimed property. (Section 59-2-1351.5)

## **Standard 12.27 Foreclosure**

### **12.27.0 Use of Foreclosure**

If the county claims a lien on real property for delinquent general taxes which have not been paid for four years, the county may foreclose the lien by an action in the district court of the county in which the real estate is located. (Section 59-2-1353)

### **12.27.1 Parties to Foreclosure**

All persons owning, having, or claiming an interest in or lien upon the real estate or any part of the real estate may be joined as defendants. While the statute does not require rejoinder of all persons with an interest in or lien upon real estate, as a practical matter, rejoinder of all parties is required. (Section 59-2-1353)

### **12.27.2 Notice of Intention to Foreclose**

Before the commencement of any foreclosure action, 30 days written notice of intention to foreclose shall be sent to the owner, if known, at the address shown on the last assessment roll of the county in which the real estate is located. If the address of the owner does not appear on the assessment roll, the notice shall be sent to the owner at the general delivery at the post office in the city, town, or precinct where the real estate is located. Service of the notice is complete when deposited in the U.S. Mail. (Section 59-2-1354)

### **12.27.3 Foreclosure Trial**

The foreclosure action will be tried and determined as actions to foreclose mortgage liens. The court will determine the amount of taxes, interest, penalties, and administrative costs on each parcel of property which has been separately assessed, and will enter its decree determining the rights, and priority of liens, of all parties to the action. The court will also direct the sheriff to advertise and sell, as in the case of sales

on execution, each parcel of property, or so much as may be necessary for the payment of the total amount of the general taxes due, with interest, penalties, and costs. The decree will also provide: (Section 59-2-1355)

- For a fixed period of time before the sale may occur in which the payment of the amounts decreed due may be paid, but the period will not exceed 30 days from the entry of the decree.
- That any of the parties to the action may become purchasers at the sale.
- That if less than an entire parcel of property is sold, it will not be sold as to: 1) convey a strip of property around the entire perimeter of the parcel, 2) convey a strip of the parcel what would prevent access to the remainder of the parcel by the redemptive owner, or 3) otherwise diminish the value of the remainder, as determined by the county executive.

#### **12.27.4 Certificate of Sale**

After a foreclosure sale is made, the sheriff will give the purchaser a certificate of sale as in the case of sales upon execution and file a duplicate of the certificate with the county recorder and auditor. (Section 59-2-1356)

#### **12.27.5 County Right to Purchase and Sell Certificate**

If the county has purchased the property, the certificate of sale may be sold and assigned by it to any person upon payment of a sum not less than the amount for which it was sold to the county, together with interest. The assignee acquires all the rights of the county in the property. (Section 59-2-1356)

#### **12.27.6 Redemption after Foreclosure**

Any person with an interest in real estate sold at foreclosure to pay delinquent property taxes has the same right to redeem the real estate from the sale, within the same time and upon the same terms as if the sale had been made upon execution. (Section 59-2-1357)

Under Rule 69 (f) (3) of the Utah Rule of Civil Procedure, property bought at a foreclosure sale may be redeemed from the purchaser within six months after the sale on paying the amount of his purchase with 6 percent interest thereon plus certain enumerated expenses.

#### **12.27.7 Deed after Redemption Period Expires**

If no redemption is made within the time provided, the sheriff will execute and deliver to the purchaser a deed conveying to the purchaser the rights, title, and interest of all of the parties, but subject to the lien of any general or special taxes which may have been levied on the property conveyed, other than those for the payment of which the sale has been made. (Section 59-2-1355)

#### **12.27.8 Report to State Auditor**

The county treasurer shall keep an accurate record not only of all revenues from redemption of property sold to the county, but also for assignments of certificates of sale

received at foreclosure sales. The treasurer shall make a report on this record each year on the first Monday in March to the state auditor. (Section 59-2-1366)

## **Standard 12.28 Taxpayer Bankruptcy**

### **12.28.0 Characteristics of Bankruptcy**

If a real property owner declares bankruptcy, collection of delinquent taxes may become complex. Complexity arises because the rules for various bankruptcy chapters are different and because delinquent taxes may be treated in a different manner than the interest that has accrued on those taxes. It would be prudent to consult with the county attorney when collecting taxes after a bankruptcy has been declared.

### **12.28.1 General Steps**

If a delinquent real property owner has declared bankruptcy, the treasurer may follow these general steps:

- Flag the account to stop all collection proceedings.
- File a secured claim with the bankruptcy court for all delinquent amounts due the county. Include a delinquency statement with the proof of claim. See Appendix 12A for a sample “Proof of Claim” form. When the court notifies the county of a bankruptcy, the packet should include a bar-coded claim form with much of the information completed. When provided, counties are requested by the court to use these bar-coded forms for more efficient processing.
- Send a copy of the “Proof of Claim” and any pleadings to the county attorney and allow the attorney to respond to any debtor / creditor motions.
- As taxes subsequent to the bankruptcy filing are assessed, file a secured administrative claim with the bankruptcy court for the amount due and send a notice to the taxpayer.
- If the subsequent tax is not paid by the taxpayer, do not proceed with any other collection efforts in regards to that subsequent tax.
- Do not place the property on the listing for final tax sale until the bankruptcy is resolved.



## **Appendix 12A**

### **Forms**

<b>PT-120</b>	<b>Treasurer’s Certificate to Record of Delinquent Taxes</b>
<b>PT-121</b>	<b>Notice of Tax Sale</b>
<b>PT-122</b>	<b>Tax Deed</b>
<b>B10</b>	<b>Sample Bankruptcy Form</b>

<b>Treasurer's Certificate to Record of Delinquent Taxes</b>	UCA §59-2-1339 Form PT-120 PT-120.ai Rev. 1/01
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State of Utah )

ss.

County of )

I, \_\_\_\_\_, county treasurer of the county of \_\_\_\_\_, state of Utah, do certify that to the best of my knowledge the attached record is a full, true, and correct record and constitutes the official record of all properties which became delinquent for the year \_\_\_\_\_, and shows in the same order as the property appears on the assessment roll, the name of the person to whom the property is assessed, the description of the delinquent parcel and a reference to the parcel, serial, or account number under which the property was listed in the assessment roll, the amount of taxes, penalties, administrative costs, the date of redemption, and by whom the property was redeemed if any redemption has been made.

Signature \_\_\_\_\_

County Treasurer of \_\_\_\_\_ County

## Notice of Tax Sale

UCA §59-2-1351(3)  
Form PT-121  
PT-121.ai Rev. 1/01

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ . m., at the front door of the county courthouse in \_\_\_\_\_ County, Utah, I will offer for sale at public auction and sell to the highest bidder for cash, under the provisions of Section 59-2-1351.1, the following described real property located in the county and now delinquent and subject to tax sale. A bid for less than the total amount of taxes, interest, penalty, and administrative costs which are a charge upon the real estate will not be accepted.

### Description of Property

### Certification

IN WITNESS WHEREOF I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

County Auditor \_\_\_\_\_

County \_\_\_\_\_

<b>Tax Deed</b>	UCA §59-2-1351.1(9) Form PT-122 PT-122.ai Rev. 1/01
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\_\_\_\_\_ County, a body corporate and politic of the State of Utah,  
grantor, hereby conveys to \_\_\_\_\_, grantee, of  
\_\_\_\_\_ the following described real estate in  
\_\_\_\_\_ County, Utah:

<b>Description of Property</b>
--------------------------------

<b>Certification</b>
----------------------

This conveyance is made in consideration of payment by the grantee of \$\_\_\_\_\_ representing the total amount owing for delinquent taxes, penalties, interest, and administrative costs constituting a charge against the real estate, for nonpayment of general taxes assessed against it for the year(s) \_\_\_\_\_ through \_\_\_\_\_ in the sum of \$\_\_\_\_\_. Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Auditor's Seal)

County \_\_\_\_\_

By County Auditor \_\_\_\_\_

<b>United States Bankruptcy Court District of Utah</b>		<b>Proof of Claim</b>	
Name of Debtor	Case Number		
Note: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" of payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.			
Name of Creditor (the person or other entity to whom the debtor owes money or property):	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.		
Name and Address Where Notices Should Be Sent	<input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case.  <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the bankruptcy court.	<b>THIS SPACE IS FOR COURT USE ONLY</b>	
Account or other number by which creditor identifies debtor:	Check here if this claim <input type="checkbox"/> replaces or <input type="checkbox"/> amends a previous claim,		
<b>1. Basis for Claim</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Goods Sold  <input type="checkbox"/> Services Performed  <input type="checkbox"/> Money loaned  <input type="checkbox"/> Personal Injury/Wrongful Death  <input type="checkbox"/> Taxes             </div> <div style="width: 50%;"> <input type="checkbox"/> Retiree Benefits as defined in 11 U.S.C. §1114(a)  <input type="checkbox"/> Wages, Salaried, and compensations (Fill out below)                Your Social Security Number _____  <input type="checkbox"/> Unpaid compensation for services performed                from _____ to _____             </div> </div>			
<b>2. Date Debt Was Incurred:</b>	<b>3. If court judgement, date obtained:</b>		
<b>4. Total Amount of Claim at Time Case Filed:</b> \$ _____ If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box is claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or			
<b>5. Secured Claim</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (include a right of setoff). Brief Description of Collateral: <div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> Real Estate           <input type="checkbox"/> Motor Vehicle         </div> <input type="checkbox"/> Other: _____  Value of collateral: \$ _____  Amount of arrearage and other charges <u>at time case filed</u> included in secured claim above, if any:	<b>6. Unsecured Priority Claim</b> <input type="checkbox"/> Check this box if you have an unsecured priority claim. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, Salaries, or commissions (up to \$4,300)*, earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier. - 11 U.S.C. §507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507(a)(4) <input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(6) <input type="checkbox"/> Taxes or penalties of governmental units - 11 U.S.C. §507(a)(7) <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §§507(a)(____)		
<b>7. Credits:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		<b>THIS SPACE IS FOR COURT USE ONLY</b>  Please mail or file this form to: <b>U. S. BANKRUPTCY COURT 350 SOUTH MAIN STREET SALT LAKE CITY, UT 84101</b>	
<b>8. Supporting Documents:</b> <i>Attach copies of supporting documents</i> , such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security interests, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are voluminous, attach a summary.			
Date	Sign and print name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)		
<b>Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§152 and 3571</b>			

## Instructions for Proof of Claim Form

*The instructions and definitions below are general explanations of the law. In particular types of cases or circumstances, such as bankruptcy cases that are not filed voluntarily by a debtor, there may be exceptions to these general rules.*

### Definitions

#### **Debtor**

The person, corporation, or other entity that has filed a bankruptcy case is called the debtor.

#### **Creditor**

A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

#### **Proof of Claim**

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed

#### **Secured Claim**

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.

Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgement is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also *Unsecured Claim*.)

#### **Unsecured Claim**

If a claim is not a secured claim, it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

#### **Unsecured Priority Claim**

Certain types of unsecured claims are given priority, so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims). The most common types of priority claims are listed on the proof of claim form. Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as *Unsecured Nonpriority Claims*.

### Items to be completed in Proof of Claim form (if not already filled in)

#### **Court, Name of Debtor, and Case Number:**

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.

#### **Information about Creditor:**

Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

#### **1. Basis for Claim:**

Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.

#### **2. Date Debt Incurred:**

Fill in the date when the debt first was owed by the debtor.

#### **3. Court Judgments:**

If you have a court judgment for this debt, state the date the court entered the judgment.

#### **4. Total Amount of Claim at Time Case Filed:**

Fill in the total amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

#### **5. Secured Claim:**

Check the appropriate place if the claim is a secured claim. You must state the type and value of property that is collateral for the claim, attach copies of the documentation of your lien, and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See "Definitions", above.)

#### **6. Unsecured Priority Claim:**

Check the appropriate place if you have an unsecured priority claim, and state the amount entitled to priority. (See "Definitions", above.) A claim may be partly priority and partly nonpriority if, for example, the claim is for more than the amount given priority by the law. Check the appropriate place to specify the type of priority claim.

#### **7. Credits:**

By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.

#### **8. Supporting Documents:**

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If the documents are not available, you must attach an explanation of why they are not available.